or secure the blessings of liberty to ourselves and our posterity. But joined with other free nations, we can do all this and more.''

Americans and Europeans are proud people—and justifiably so. We both want to control our own destinies. We both want to shape our own futures. But neither one of us can let pride or politics block the unity by which we will all achieve greater security, freedom, and prosperity. Our values are shared. Our fates are interlocking. We will rise or fall together.

And when we rise, the terrorists and tyrants will fall. America still needs Europe, and Europe still needs America, and it is time that all the leaders on both sides of the Atlantic started acting in a way that says we understand that overarching truth.

Thank you.

THE SARBANES-OXLEY BAN ON INSIDER CORPORATE LOANS

Mr. LEVIN. Mr. President, about 6 months ago, we enacted into law an important set of reforms to curb some of the corporate abuses that have shaken investor confidence in American business, from dishonest accounting to price manipulation to cases in which company executives have walked away from poor corporate performance with millions of dollars in their pockets, while investors, shareholders, and employees have watched their savings evaporate.

These corporate reforms, included in the Sarbanes-Oxley Act of 2002, addressed a host of problems. Today, I want to take a few minutes to discuss one of the most important reforms included in that bill, Section 402, which has so far received very little attention.

Section 402 established, for the first time, a prohibition against publicly traded corporations using company funds to give personal loans to company officers and directors. This simple prohibition is having an impact on corporate America, and I want to take a few minutes to explain the importance of this loan prohibition, the abuses it is correcting, and why it must be protected from efforts to narrow or weaken it.

Last year, the Permanent Subcommittee on Investigations, which I then chaired, conducted an extensive, bipartisan investigation into the collapse of Enron. The Subcommittee reviewed 2 million pages of documents, conducted 100 interviews, held four hearings, and issued two reports. One of the issues we looked at were the loans that Enron gave to its CEO.

In a report entitled, ''The Role of the Board of Directors in Enron's Collapse,'' issued in July, the subcommittee found that multimillion-dollar loans, using company funds, had been approved by the Enron board for the personal use of Mr. Lay, then chairman of the board and chief executive officer. The subcommittee found that the board's compensation committee first gave Mr. Lay access to a $4 million line of credit, increased this credit line in August 2001 to $7.5 million, and authorized repayment with either cash or company stock.

The subcommittee found that, in 2000, Mr. Lay began using what one Enron board member called an ''ATM approach'' toward his credit line, repeatedly drawing down the entire amount available and then repaying the loan with Enron stock. Records show that Mr. Lay at first drew down the line of credit once per month, then every 2 weeks, and then, on some occasions, several days in a row.

In the 1-year period from October 2000 to October 2001, Mr. Lay used his company credit line to obtain over $77 million in cash from the company. In every case, he repaid the borrowed cash by tendering shares of Enron stock. In most cases, he obtained these shares by exercising stock options granted to him as part of his executive compensation. Mr. Lay withdrew these millions of dollars from company coffers at a time when Enron was experiencing cash flow shortages, Enron's shares were dropping, and Enron shareholders were suffering losses. After Enron's collapse, it was discovered that Mr. Lay had borrowed a total of $81 million from the company in 2001, and failed to repay about $7 million.

When asked about these loans at a subcommittee hearing, the head of Enron's compensation committee said that his committee had no duty to monitor the CEO's loan activity. He also indicated that, while Mr. Lay's loans were more extensive than anticipated, appeared to have functioned as secret stock sales to the company, and affected company cash flow at a critical time, he was not prepared to characterize the CEO's actions or failure to repay $7 million as an abuse. He declined to criticize Mr. Lay's conduct. The subcommittee concluded that the Enron board had failed to monitor or halt abuse by Mr. Lay of his company-financed credit line.

Enron was an eye-opener, but it turns out that it is far from the only U.S. company handing out multimillion-dollar loans to executives, often without regard to whether the issued loans benefit the corporation or whether they will be repaid.

In December 2002, the Corporate Library, a non-profit organization that provides information to help investors and stockholders, published the most comprehensive analysis yet of the pervasiveness of company loans to executives prior to enactment of Section 402. The report, entitled ''My Big Fat Corporate Loan,'' presents information compiled from reviewing SEC filings for 1,526 of the largest U.S. corporations in the United States. This report relies solely on what companies have disclosed to the public about their loans to executives, without any attempt to verify or supplement these disclosures. The result is data that may provide a conservative picture of company lending to executives.

The Corporate Library report has determined that over one-third of the largest 1,500 companies in the U.S. have outstanding loans to company executives. According to the report, the average size of these loans was 10.7 million in 2001, and the total amount of lending exceeded $4.5 billion. The report also points out that when company loans to purchase split dollar life insurance, described later, for corporate executives are included, the percentage increases to over 75 percent. When short-term company loans allowing executives to exercise stock options are included, the percentage tops 90 percent.

The list of companies issuing these loans include not only companies marked by scandal, such as Enron, Tyco, Adelphia, WorldCom, and Global Crossing, but also many companies perceived as solid investments with good corporate practices and reasonable executive pay.

The report describes the purpose of the loans as reported by the companies in their SEC filings. The largest proportion of the loans, about 35 percent, had a stock-related purpose, such as to allow a company executive to exercise stock options, purchase stock, or retain stock after a margin call. The report expresses dismay at examples of executives using interest-free loans to buy company stock, being excused from repayment of the loan, and thereby acquiring a substantial company investment without expending any of their own money.

Loans to help an executive relocate to a new area, including buying a house, comprised the second largest portion of company loans to executives. These loans comprised about 27 percent of the total, according to the report. While relocation loans sound reasonable, the report provides examples of disturbing abuses, including loans for millions of dollars. In one case, Millennium Pharmaceutical issued a loan to a senior vice president to buy a house in the Boston area and allowed the loan to be forgiven over time. In another case, the president of a Nike business unit was given a so-called loan for a second home. By its terms, that loan was intended to be forgiven over 5 years. Another example, not mentioned in the report but discussed in the media, is the $16.5 million loan issued by Tyco International to its CEO Dennis Kozlowski to buy property in Boca Raton and Nantucket. Tyco also loaned $14 million to its general counsel, Mark Belnick, for a New York apartment and to build a home in Utah, a State where Tyco has no operations.

It boggles the mind to think that high-paid corporate executives were using company funds to build themselves mansions and then, in some cases, skipping repayment of the funds altogether. It is unlikely that a company would issue a loan to an average employee to build a multimillion-dollar residence or to build a second home, since there would be no business justification for it. There is no justification for lending company funds to a corporate executive either, yet these types of loans were becoming commonplace. Section 402 was intended to stop these loans cold.

The Corporate Library report tells us that the third most frequent type of company loan for company executives was issued for ''unspecified'' reasons. In other words, millions of dollars of stockholder funds were loaned without disclosing to the stockholders the purpose of the loans. The authors of the report not only express dismay at this unexplained use of company funds, they also suggest that the absence of this information is a clear violation of SEC disclosure requirements.

Another issue highlighted in the report is the extent to which individual companies were devoting substantial dollars to executive loans. According to the report, Wachovia Corporation led the pack last year with a total of $2.2 billion in company loans to executives. Adelphia issued over $263 million in loans to members of the Rigas family that owned it. Worldcom loaned its CEO $160 million. Kmart, now operating in bankruptcy, has outstanding executive loans of $30 million, including a $5 million so-called ''retention'' loan that it gave to its former CEO.

The report also presents data showing that companies are issuing substantial loans to executives on terms that disadvantage the company. Many companies have been charging below-market interest rates or no interest at all. Others have been allowing their executives to escape all loan repayment, simply by forgiving the debt owed. The report states that only half of the companies it examined indicated any plan to charge interest, and a careful examination of loan terms revealed a number of methods to forgive interest or provide additional loans to cover it. The report also identifies over 100 companies that had, or were in the process of, forgiving loans to their executives. It also describes a number of companies that increased outstanding loan amounts to include a ''gross up'' to take care of taxes owed by the executive as a result of the forgiven loan.

Finally, let's look at split dollar life insurance loans. These loans had become very popular among corporate executives in the last few years. The way they work is that the company obtains the insurance policy for its executive and pays the premiums, while the executive names the policy beneficiaries. The policies are called ''split dollar'' because, when the policy pays out, the company is reimbursed from the benefits for the cost of the premiums. The remainder of the insurance benefits, often millions of dollars, goes to the named beneficiaries, such as the executive's family. Because the funds are insurance benefits, the payments to the beneficiaries are mostly tax-free. The result is a company-financed loan to the executive to cover the cost of the insurance premiums, enabling the executive to afford a generous policy and provide tax-free benefits for his or her beneficiaries.

Many of the split dollar life insurance policies that U.S. companies provide to their top executives involve large payouts and large premiums. At Enron, for example, Enron provided its CEO, Ken Lay, with a $12 million split dollar life insurance policy and agreed to pay premiums exceeding $1 million.

The Corporate Library report found that over 60 percent of the companies it examined had purchased split dollar life insurance for one or more of their executives. The report determined that a number of these policies involved substantial sums of money. For example, the report stated that many of the policies cost ''up to $25 million per officer''; Estee Lauder disclosed paying $26 million for premiums on a split dollar life insurance policy for its CEO; Comcast disclosed paying more that $6.5 million in 1 year and $20 million over 3 years for premiums on a policy for its chairman; and First Virginia Banks reported providing all of its executives with insurance coverage of up to a $1 million each.

Since Section 402 has gone into effect, most companies have apparently discontinued providing their executives with split dollar life insurance loans, and the executives themselves have declined to pay the premiums. The result has been a dramatic drop in sales of this insurance. Insurance groups have been lobbying the SEC and Congress to create an exception to Section 402 to permit companies to resume providing split dollar life insurance loans to their executives, but so far they have been unsuccessful in reversing Section 402's ban on this type of corporate loan.

All of the loans banned by Section 402 are loans to corporate officers or directors who are among the highest paid individuals in our society. In 2001, for example, average CEO pay at the top 350 U.S. companies was $11 million. That is 400 times the pay of an average worker in this country. These loans were on top of that pay.

All of these executives could have turned to a bank for their loans. Instead, they turned to their employer and asked to use company funds. The practice of U.S. companies loaning company funds to their executives is relatively new. Given the huge amounts involved, the absence of reasonable interest rates, and the common practice of companies forgiving the debt altogether, the question becomes whether many of these ''loans'' were simply elaborate ways to enrich corporate executives at the expense of the investing public. The Corporate Library report shows that these loans were pervasive and that abuses were commonplace. The work of the Permanent Subcommittee on Investigations suggests that too many boards of directors do not have the will or incentive to limit the loan amounts or to detect or prevent abuses.

That is why, last July, our subcommittee included in its first Enron report a recommendation to stop companies from loaning company funds to executives. That is why, later that same month, Congress enacted Section 402. That is why, in September of last year, Senator COLLINS and I sent a letter to the SEC urging it to resist any attempts to narrow or weaken Section 402's ban on insider loans to allow corporate executives to purchase company stock, exercise stock options, obtain insurance, relocate for work or pay taxes.

Section 402 has put an end to a large set of abuses associated with company loans to executives. They include loans issued without interest; loans used to build personal mansions at company expense; loans used to provide executives' families with tax-free insurance benefits; loans for every purpose and loans that are never repaid. Company funds belong to shareholders and are intended to benefit them and the company they own; they were never intended to act as a pool of funds available to be loaned or given to company executives.

Congress acted wisely in passing Section 402. This measure, alone, is stopping companies from giving billions of dollars in insider loans to corporate executives. Ending these loan abuses should help restore investor confidence in corporate America. Opponents of this reform are continuing to seek ways around it, but I hope my colleagues will join me in understanding the importance of this reform and the need to ensure it reaches it full potential.

I ask unanimous consent that the Levin-Collins letter to the SEC be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC., September 25, 2002.

Hon. HARVEY L. PITT
U.S. Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC.

DEAR MR. CHAIRMAN: The purpose of this letter is to urge the Commission to resist any efforts to narrow or weaken the insider loan prohibition established by Section 402 of the Sarbanes-Oxley Act, codified at 15 U.S.C. 78m(k), a key reform designed to stop a common insider abuse found at Enron Corporation, Worldcom, Tyco International, and other publicly traded companies.

Issued related to insider corporate loan abuses were examined by the Permanent Subcommittee on Investigations in connection with its ongoing review of Enron. In its bipartisan report, ''The Role of the Board of Directors in Enron's Collapse'' (July 2002), copy enclosed, the Subcommittee found that multi-million dollar loans, using company funds, had been approved by the Enron Board for the personal use of Kenneth Lay, then Chairman of the Board and Chief Executive Officer (CEO). The Subcommittee found that the Board's Compensation Committee first gave Mr. Lay access to a $4 million line of credit, increased this credit line in August 2001 to $7.5 million, and authorized repayment with either cash or company stock. The Subcommittee found that, in 2000, Mr. Lay began using what one Board member called an ''ATM approach'' toward his credit line, repeatedly drawing down the entire amount available and then repaying the loan with Enron stock. Records show that Mr. Lay at first drew down the line of credit once per month then every two weeks and then, on some occasions, several days in a row. In the one-year period from October 2000 to October 2001, Mr. Lay used the credit line to obtain over $77 million in cash from the company and repaid the loans exclusively with Enron stock, at a time when the company had significant cash flow issues. After Enron's collapse, it was discovered that Mr. Lay had failed to repay and still owes the company about $7 million. The Subcommittee concluded that the Enron board had failed to monitor or halt abuse by Mr. Lay of his multi-million-dollar, company-financed credit line.

Enron, of course, is not alone in having experienced corporate loan abuses. Similar abuses by corporate executives given company-financed loans for millions of dollars have taken place at other U.S. publicly traded companies. At the time of Worldcom's collapse, for example, Board Chairman and CEO Bernard Ebbers was found to have outstanding company-financed loans exceeding $400 million. Apparently, most of these loans had been provided to enable him to purchase Worldcom stock. At Tyco International, Board Chairman and CEO Dennis Kozlowski and other executives apparently managed to secure not only multi-million-dollar personal loans using company funds, but to arrange to have these loans deemed ''forgiven'' in amounts allegedly totaling more than $100 million. Apparently these loans were to pay for employee relocation expenses, including the purchase of expensive residences. Numerous other publicly traded companies have also provided troubling, multi-million-dollar, company-financed loans to corporate executives, including Adelphia, AMC Entertainment, Dynegy, FedEx, Healthsouth, Home Depot, Kmart, Mattel, Microsoft, Priceline.com, SONICblue, and more.

Given the extent of insider abuse in this area and the lack of effective Board or management oversight, the Subcommittee recommended in its July report that Board members at publicly traded companies bar the issuance of company-financed loans to company directors and senior officers. Later that same month, Senator Charles Schumer offered on the Senate floor the amendment that led to inclusion of the Section 402 prohibition in the final corporate reform law.

Media reports indicate that some companies may be pressing the SEC to narrow the scope of the prohibition or otherwise weaken it through regulation, guidance, or other means. These media reports suggest that opponents want exemptions, for example, for company loans used by executives to purchase company stock, exercise stock options, obtain insurance, relocate for work, or pay taxes. But the legislative history provides no basis for creating these exemptions or otherwise weakening the provision. To the contrary, the statutory prohibition makes it clear that publicly traded companies are not supposed to be using company funds to provide personal financing to company directors or officers for any reason; financing is to be provided instead by lenders, credit card operators, or other third parties engaged in the ordinary course of business.

In light of the abusive record compiled by the Permanent Subcommittee on Investigations among others, the Subcommittee's bipartisan recommendation to bar company-financed loans to corporate directors or officers, and the plain language of the statutory prohibition itself, the Commission should continue to resist efforts to weaken this significant post-Enron reform. Congress enacted and the SEC must enforce this bright-line measure to end corporate loan abuses by top executives.

Thank you for your attention to this important matter. If your staff has any questions or concerns about this letter or would like additional copies of the Subcommittee report, please have them contact Elise Bean, Subcommittee Staff Director, at (202) 224–9505 or Kim Corthell, Minority Staff Director, at (202) 224–3721.

Sincerely,

SUSAN M. COLLINS,
Ranking Minority Member.
CARL LEVIN,
Chairman.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred September 2, 2001 in Athens, GA. Christopher Gregory, 20, was attacked while leaving a gay bar. Gregory was walking with friends when a group of people started shouting anti-gay epithets at them. After Gregory turned and yelled ''Leave us alone!'' an attacker punched him, knocking him to the ground. As the attacker walked away he directed another anti-gay slur toward Gregory.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

TURKEY'S REQUEST TO NATO FOR ASSISTANCE

Mr. BIDEN. Mr. President, I rise today to condemn in the strongest terms the rejection yesterday by France, Germany, and Belgium of Turkey's formal request for defensive help under Article 4 of the North Atlantic Treaty. This was the first invocation of Article 4 in the 54-year history of NATO.

Article 4 mandates alliance members to consult ''whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of the Parties is threatened.'' Fearing a preemptive attack by Iraq, Turkey requested Patriot missile batteries, AWACS radar planes, and specialized units for countering chemical and biological warfare.

Sixteen of the 19 NATO members voted to grant Turkey its request. France, Germany, and Belgium, however, refused, thereby blocking the request under the alliance's consensus principle. Paris, Berlin, and Brussels argued that even this kind of defensive action by NATO would appear to commit the alliance to war before the U.N. weapons inspectors in Iraq had issued their second report this Friday.

I have spoken at length on the situation in Iraq on the floor of this chamber and in many other venues. Today, therefore, I will restrict my comments to yesterday's action in NATO's North Atlantic Council, NAC, and the potential ramifications for the future of the alliance.

Frankly, I am shocked and outraged at the behavior of France, Germany, and Belgium. I could easily give an emotional response, but I will not descend to the level of caricature and vitriolic insults that, unfortunately, one increasingly hears from Western European America-bashers.

Nor will I indulge in blanket criticism. France is this country's oldest ally and in the last 12 years took part in the Gulf War, the Kosovo air campaign, and in Operation Enduring Freedom. Germany too has participated in recent military and peacekeeping operations and on this very day, together with the Netherlands, is assuming command of the International Security Assistance Force, ISAF, peacekeeping operation in Afghanistan. Belgium is also contributing troops to peacekeeping in the Balkans.

This is, however, only part of the story. Recent history, unfortunately, gives us a foretaste of yesterday's action in the NAC. One might recall Belgium's refusal during the Gulf War to sell ammunition to NATO ally Great Britain. Or more directly applicable was the Bundestag speech early in 1991 by Mr. Otto Lambsdorff, then a leader of the German Free Democratic Party, opposing military shipments to NATO ally Turkey because of elements of Ankara's domestic policy.

Germany's action yesterday was particularly distasteful, since that country's postwar economic miracle or ''Wirtschaftswunder'' was to a considerable extent built by the sweat of Turkish guest workers.

Aside from moral considerations, the refusal of assistance to Turkey by these three countries gravely undermines the solidarity that is the bedrock of the North Atlantic Alliance.

At first glance, their behavior is puzzling, since they surely know that the United States will stand by its Turkish ally and either unilaterally, or in conjunction with other NATO members, will provide the equipment that Ankara feels it needs.

Already one European ally has stepped up to the plate. The Dutch Foreign Ministry has declared that ''the Netherlands is strongly opposed'' to the French-German-Belgian move and ''will go ahead with providing Patriot missiles to Turkey.'' The Dutch, in fact, have already sent an air force team to Turkey to prepare for the dispatch of the Patriot missile batteries, which will be manned by 370 Dutch military personnel.

So since Turkey will receive defensive assistance, the French-German-